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HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition (C) No. 2040 of 2007

PETITIONER : Ku. Deepti Pardhi

VERSUS

RESPONDENTS : State of Chhattisgarh & Others.

Post for order on 11.12.2007

Sd/-
Satish K. Agnihotri
Judge

11.12.2007

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (C) No. 2040 of 2007

PETITIONER : Ku. Deepti Pardhi, D/o Shri Hemraj Pardhi, Village Sihava, Tehsil – Nagri, Distt. Dhamtari (C.G.)

VERSUS

RESPONDENTS : 1. State of Chhattisgarh through The Secretary, General Administration, D.K.S. Bhawan, Mantralaya, Raipur (Chhattisgarh)
2. Collector, Dhamtari (Chhattisgarh)
3. Sub-Divisional Magistrate, Nagri, Distt. Dhamtari (C.G.)
4. C.G. Public Service Commission, through Secretary, Raipur (C.G.)

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Single Bench : Hon'ble Shri Satish K. Agnihotri, J.

Present: Petitioner in person.
Shri Arvind Dubey, Panel Lawyer for the State/respondents 1 to 3.
Shri Abhishek Sinha, Advocate for respondent NO. 4.

ORDER

(Passed on ..11th day of December, 2007)

1. The petitioner challenges the non-grant of Other Backward Class Certificate (hereinafter referred to as 'the O.B.C. Certificate') on the basis of her provisional caste certificate and non-selection of the petitioner in Civil Services Main Examination, 2005, on the ground that she was treated as general candidate. The petitioner seeks following reliefs:

7.1 That, Hon'ble Court may kindly be pleased to direct the respondent No. 1 to 3 to produce the entire record to pertaining to the issuance of caste certificate to the petitioners & also direct the respondent No. 4 to produce entire record of his examination before Hon'ble Court for his kind perusal.

7.2 That, this Hon'ble Court may kindly be pleased to issue writ of certiorari and quash the impugned order of Annexure P-10 dated 23.03.2007, passed by Sub-Divisional Officer

(Revenue) Nagari, Distt. Dhamtari & hold that the petitioner is entitled for permanent caste certificate of OBC.

7.3 That, the Hon'ble Court may kindly be pleased to direct the respondent No. 1 to 3 by issuing writ of mandamus to provide a permanent Caste Certificate of OBC to petitioners.

7.4 That, this Hon'ble Court may kindly be pleased to quash the impugned order of Annexure P-7, dated 01.02.07 passed by Respondent No. 4 & direct him to consider the Case of petitioner as a Candidate of OBC & declare her result.

7.5 That, the Hon'ble Court may kindly be pleased to direct the respondent to compensate the petitioner suitably for the loss & mental agony which she suffered due to the acts of respondents.

7.6 That, any other relief which this Hon'ble Court deems fit, may also be granted to the petitioner.

2. In respect of relief clause No. 7.2 and 7.3, Shri Arvind Dubey, learned counsel appearing for the State/respondents 1 to 3, would submit that in view of the order No. F 9-1/2001/1/3 dated 27th June, 2007, the petitioner is entitled to O.B.C. certificate. Learned counsel further submits that the petitioner, on making an application for grant of caste certificate as O.B.C., shall be granted the said certificate in accordance with order dated 27th June, 2007. In view of the categorical statement made by learned counsel appearing for the State/respondents 1, 2 and 3, relief clause No. 7.2 and 7.3 stand satisfied. The petitioner has no further grievance.

3. A Division Bench of this Court in W.P.(C) No. 5314 of 2007 (Ku. Bharti Banpuriya Vs. State of Chhattisgarh & Others) disposed of identical petition observing as under:

> "Learned Advocate General appearing for the respondents/State informs that the judgment of the learned Single Judge was wrongly interpreted and in compliance of the judgment in Writ Petition No.

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2510/2004 dated 04.02.2005, the Government by an order dated 02.02.2006 had kept its notification dated 06.07.2004 in abeyance. Thereafter, the Government has issued another order dated 27.06.2007 wherein definition of bonafide residents of Chhattisgarh has been defined and explained which includes (i) persons belonging to the central services posted at Chhattisgarh, their spouses or children; (ii) all the employees of State of Chhattisgarh, their spouses or children; (iii) Persons appointed on Constitutional or Statutory posts by President of India, their spouses or children; (iv) Corporations, Agencies, Commissions, Board's, Officials/Officers/employees, their spouses or children. This Government order is to benefit the petitioners-students with respect to bonafide residents of Chhattisgarh.

We are of the considered opinion that once such persons have been recognized as residents of Chhattisgarh, then the same analogy shall apply for the purpose of the admissions of children of the categories referred to hereinabove are concerned, if their caste is included in the Presidential Order."

4. Admittedly, the caste of the petitioner "Pawar" is in the O.B.C. list of State of Chhattisgarh at serial No. 13 and in the central list at serial No. 229.

5. With regard to prayer No. 7.4 and 7.5, Ku. Deepti Pardhi, petitioner in person would submit that treating the petitioner as general category candidate is bad in law, though the petitioner could not produce caste certificate to that effect. However, keeping in view the provisional caste certificate, the petitioner ought to have been treated as O.B.C. candidate and the result should have been declared accordingly. Miss Pardhi, further submits that for denial of selection of the petitioner, she has suffered mental agony and loss. Thus, she is entitled to appropriate compensation also.

6. Shri Abhishek Sinha, learned counsel appearing for the respondent No. 4, Chhattisgarh Public Service Commission, would submit that in accordance

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with clause 9(3) of the advertisement dated 24.05.2006, the petitioner was required to submit a valid caste certificate issued by the competent authority. This condition was specifically prescribed in the prospectus issued alongwith the form. The supply of caste certificate issued by the competent authority was mandatory. Admittedly, the petitioner had failed to submit a valid caste certificate and as such, she was treated as unreserved category candidate. In absence of legal valid proof, she could not have been treated a candidate in reserved quota for O.B.C.

7. Mr. Sinha would further submit that the marks obtained by the petitioner was much less and as such, she was declared unsuccessful. The selection process has been complete. The results thereof have been declared and the recommendation for appointment have also been made accordingly. The case of the petitioner cannot be considered at this stage. However, the petitioner, after obtaining valid caste certificate can apply in future as reserved candidate (OBC).

8. Shri Sinha, learned counsel would last submit that the petitioner had suffered not on account of any misconduct or non-action on the part of the respondents. The petitioner herself had failed to submit a valid caste certificate. Thus, there is no question for any compensation. The petitioner can not be granted compensation for her own fault.

9. I have heard the petitioner in person and the learned counsel for the parties, perused the pleadings and documents appended thereto. I am of the considered opinion that in the facts of the case wherein it is evident that the petitioner had admittedly failed to produce valid caste certificate, the respondent No. 4 cannot be faulted with for treating her as general candidate. The petitioner had not challenged non-grant of caste certificate earlier. The petitioner had chosen to challenge the same after the examination was over,

recommendations have been made for appointment on the basis of merit list prepared by the respondent No. 4.

10. In the case of Union of India & Others Vs. S.Vinodh Kumar & Others[1], the Supreme Court observed inter-alia, as under:

> "It is also well settled that those candidates who had taken part in the selection process knowing fully well the procedure laid down therein were not entitled to question the same (See Munindra Kumar v. Rajiv Govil & See also Rashmi Mishra v. M.P. Public Service Commission)."

11. In view of foregoing, there is no merit in the case, no further relief can be granted to the petitioner. The petition is accordingly dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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1. (2007) 8 SCC 100

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